
YEAS (68)		NAYS (31)		NOT VOTING (1)	
Republicans	Democrats	Republicans	Democrats	Republicans	Democrats
				EXPLANATION OF ABSENCE: 1—Official Business 2—Necessarily Absent 3—Illness 4—Other SYMBOLS: AY—Announced Yea AN—Announced Nay PY—Paired Yea PN—Paired Nay	

VOTE NO. 233

JULY 23, 1998

● Admission of temporary foreign agricultural (H-2A) workers. The Secretary of State would issue visas to, and the Attorney General would admit, a sufficient number of eligible aliens to fill an employer's agricultural job openings when sufficient workers could not be obtained from a registry, including when workers needed to be hired within 72 hours to meet an unforeseen emergency need. Visas would generally be issued within 5 days of an application. The Labor Department could cap the number of workers sponsored by independent contractors, agricultural associations, and similar entities.

● Employment requirements. Employers applying for workers from a registry would have to pay prevailing wages. Employers would have to provide housing or a housing allowance equal to the statewide average fair market rental for existing housing in nonmetropolitan counties. Workers who completed 50 percent or more of the period of employment would be eligible for reimbursement of their travel costs from and to their permanent places of residence, up to 100 miles.

● Enforcement and penalties. The Labor Department would establish a process for handling complaints of employer violations of the application process. Decisions by the Department could be appealed before administrative law judges. Back wages could be awarded. Civil monetary penalties could be assessed of up to \$1,000 for each failure to pay required wages. An employer could be fined up to \$1,000 for misrepresenting a material fact or failing to meet an application condition, and could be disqualified from the program for up to 1 year. For a second violation, an employer would be disqualified for 3 years, and for a third violation an em

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refusal for every job, and would also ensure that adequate numbers of legal aliens could enter the country.

The other basic reform that would be made by the Smith amendment would be to increase worker protections for all agricultural workers, both foreign and domestic. These reforms have been advocated for years by the Farm Worker Justice Fund. They include that all workers, including American workers who participated in a registry, would be entitled to housing or a housing allowance, and in certain circumstances would be entitled to transportation. Also, farmers would have to pay prevailing wages. Foreign workers would get the extra benefit of being given a permanent green card if they performed seasonal agricultural work in the United States under the program for 4 consecutive years. For farmers, the greatest benefit would be that if they participated in the registry they would know that their foreign workers were in the country legally. They would have a very strong incentive to participate, because participation would remove the risk of having their foreign workers disappear whenever the INS was rumored to be in the area.

The current system for bringing in temporary agricultural workers is a total failure that is harmful to those workers, to domestic workers (who lose jobs to illegal aliens), and to farmers. The Smith amendment would correct all of those problems, to the benefit of farmers, foreign workers, and domestic workers. It is a win-win-win amendment. We urge our colleagues to accept it.

Those opposing the amendment contended:

In 1960, Edward R. Morrow shocked the Nation with his famous television documentary on the exploitation of farm workers in America. His report, "Harvest of Shame," led to the repeal of the bracero program in 1964, under which 4.6 million Mexican workers had been brought to this country to harvest U.S. crops under harsh and abusive conditions. We fear that the Smith amendment would institute the equivalent of a new bracero program. Under this amendment, huge numbers of visas would have to be granted. No reasonable amount of time would be given to make sure that the people being admitted should be allowed in--tens or hundreds of thousands of visas would just be rubber-stamped. In most areas of the country, there are more than enough American workers to harvest crops. If those American workers did not quickly join the proposed registries, though, they could soon find themselves displaced by foreign workers. This result would be especially unfair in rural counties that already have high unemployment rates. Another problem is that those foreign workers would start a groundswell of new legal immigration, because after 4 years of temporary work they could get permanent green cards, and their families would then start following them to the country. A third problem is that once those foreign workers were here, it would be difficult to make certain that they were treated fairly. They would be coming from very impoverished backgrounds, and would put up with a great deal of abuse and harsh conditions because they would still be better off than if they had not come to the United States. Yet another particular concern that we have this amendment is that it would allow a housing allowance to be paid instead of requiring a farmer to provide housing. Under this provision, we have no doubt that many laborers would be left literally out in the cold, unable to find adequate housing. There may be problems with the current H-2A program, but the Smith amendment goes way too far in response. We urge our colleagues to reject this amendment.